

COMMITTEE ON LAND USE
(Standing Committee of Berkeley County Council)

Chairman: Mr. Phillip Farley, Council Member District No. 1

A meeting of the **COMMITTEE ON LAND USE**, Standing Committee of Berkeley County Council, was held on **Monday October 12, 2009**, in the Assembly Room of the Berkeley County Administration Building, 1003 Highway 52, Moncks Corner, South Carolina, at 6:20 p.m.

PRESENT: Chairman Phillip Farley, Council District No. 1; Committee Member Timothy J. Callanan, Council District No. 2; Committee Member Robert O. Call, Jr., Council District No. 3; Committee Member Cathy S. Davis, Council District No. 4; Committee Member Dennis L. Fish, Council District No. 5; Committee Member Jack H. Schurlknight, Council District No. 6; Committee Member Steve C. Davis, Council District No. 8; County Supervisor Daniel W. Davis, ex officio; Ms. Nicole Scott Ewing, County Attorney; and Ms. Barbara B. Austin, Clerk of County Council. Committee Member Caldwell Pinckney, Jr., Council District No. 7 was excused.

In accordance with the Freedom of Information Act, the electronic and print media were duly notified.

During periods of discussion and/or presentations, minutes are typically condensed and paraphrased.

Chairman Farley called the meeting to order and asked for approval of minutes for the Land Use meeting held on September 14, 2009.

It was moved by Committee Member Callanan and seconded by Committee Member Fish to **approve** the minutes as presented. The motion passed by unanimous voice vote of the Committee.

A. Ms. Mary Alice Knight, Re: Request for extension ie 2009 Assessment on **TMS #240-00-01-005 and 011.**

Ms. Mary Alice Knight, residing at 2605 John Boone Ct., Mt. Pleasant, addressed the Committee and stated she purchased the property and cleared 1/3 of the timber to create a pasture for horses. Ms. Knight changed her address and was not aware of the requirement to file for the lower assessment.

Mr. Wilson Baggett, Berkeley County Assessor, addressed the Committee and presented the property record history. The property qualified for agricultural use in 2009, but included tax law limitations. Mr. Baggett read the following letter, addressed to Mr. Phillip Farley.

“Mr. Chairman:

This letter is in response to Mary Alice Knight’s request for a 2008 refund on the above-described parcels. After a review of the information provided and in light of the current tax law governing Agricultural use, our stance regarding a refund has not changed. South Carolina Code of Laws Section 12-43-220 (d) (3) states that refunds for agricultural use are limited to the current year in which the request is made. Any request after the first penalty date would take effect for the coming year and would not be retroactive. A copy is attached for your review.

Ms. Knight’s letter references the change in address and not being aware of the change in status. Ms. Knight purchased the property in 2007 and the agricultural use remained in place based on the rate established by the seller. The address on record was provided by the owner on the deed when it was recorded. The agricultural rate was changed to 6% (non-agricultural) in 2008 and subsequent notices were mailed to the address on record. The electrical permit referenced was applied for on 1/21/2009, after the first penalty date. If Ms. Knight has requested Agricultural use at that point, she would have been denied for the same reason.

The Attorney General has an Opinion on this matter and a copy was attached for review. The opinion is found at the end of Section 12-43-220 and describes that the application for agricultural use deadline may not be extended due to lack of notice.”

If agricultural use is granted in this case, it may set a precedent for other citizens that are late with their application. The Assessor has no authority to grant the extension.

Committee Member Call inquired if the tax bill was returned with an inadequate address.

Mr. Baggett replied that the tax bill was not returned to the tax office.

Ms. Knight stated that she never received the tax bill and did not know the taxes would be in the amount of \$8,000. She did not have a real estate agent representing her at the time of the land purchase and pleaded for understanding.

Committee Member Call stated the County should send out late notices.

Mr. Baggett stated that three tax bills are mailed prior to late notices. They have been no returned notices or an address change for Ms. Knight. The delinquent tax notice was stapled to the property fence.

Committee Member Schurlknight inquired as to the repercussions if the extension is granted.

Mr. Baggett replied there has been one instance in the past that was granted an extension. That property owner received the tax notice and never opened it and expected it to be the same as the previous year. Ms. Knight is claiming to have not received the notice.

Ms. Nicole Scott Ewing, County Attorney, stated she had the standard guidelines for Council to consider, whether or not to grant the extension. The burden of an address change rests with the property owner. The County is only required to reply on the public documents that have been filed in the Register of Deeds' office. Again, Ms. Ewing stated the prevailing law states that the burden of proof is on the property owner and Council must find there was a reasonable cause for not filing before the first penalty date.

Committee Member S. Davis stated he would vote in favor of the extension. There is not a great distinction between someone who gets the notices and never opens it and someone who didn't get the notice.

Committee Member Call inquired if an address change had been filed with the post office.

Ms. Knight replied yes.

Committee Member Call asked Ms. Ewing if the Council had the authority to grant this request?

Ms. Ewing replied that if Council is satisfied that a reasonable explanation has been provided for her not filing the paperwork in a timely fashion.

It was moved by Committee Member Schurlknight and seconded by Committee Member Call to **approve** the Request by Ms. Mary Alice Knight for an extension of time for filing for agricultural use for 2008 Assessment on **TMS #240-00-01-005 and 011**. The motion passed by unanimous voice vote of the Committee.

B. Consideration prior to First Reading of the following:

1. Request by Shellie Overton for the Heirs of Jerry Pringle, 1158 Old Gilliard Road, Ridgeville, **TMS #175-00-01-048** (0.45 +/- acres), **from F-1, Agricultural District to RNC, Rural and Neighborhood Commercial District**. Council District No. 7.

[Staff recommended denial]

[Planning Commission recommended denial]

Chairman Farley stated that Committee Member Pinckney requested the Request by Shellie Overton be held for one month.

2. **Request by John & Miriam Mitchum**, located 2,000 +/- L.F. from the intersection of N. Highway 52 and 17A on North Highway 17A, Moncks Corner, **TMS #123-00-02-030** (3.0 Acres), **from GC, General Commercial District to F-1, Agricultural District**. Council District No. 8.

[Staff recommended approval]

[Planning Commission recommended approval]

It was moved by Committee Member S. Davis and seconded by Committee Member Fish to **approve** prior to **First Reading, the Request by John & Miriam Mitchum**. The motion passed by unanimous voice vote of the Committee.

3. **Request by Caroline Gethers** for Heirs of Caroline Gethers, 307 N. Live Oak Drive, Moncks Corner, **TMS #142-04-02-048** (1.65 acres) **from GC, General Commercial District to F-1, Agricultural District**. Council District No. 8.

[Staff recommended approval]

[Planning Commission recommended approval]

It was moved by Committee Member S. Davis and seconded by Committee Member Schurlknight to **approve** prior to **First Reading, the Request by Carolina Gethers**. The motion passed by unanimous voice vote of the Committee.

4. **Request by Norman Sanders** for First Citizens Bank & Trust Co, Inc., 909 Black Oak Road, Bonneau, Portion of **TMS #068-04-03-021** (0.1864 acre) **from R-2 Manufactured Residential to GC, General Commercial District**. Council District No. 6.

[Staff recommended approval]

[Planning Commission recommended approval]

It was moved by Committee Member Schurlknight and seconded by Committee Member S. Davis to **approve** prior to **First Reading, the Request by Norman Sanders**. The motion passed by unanimous voice vote of the Committee.

HELD IN COMMITTEE:

5. **Request by Mark Warnock** for **WH Land Company**, 1302 Charity Church Road, Huger, **TMS #239-00-00-124**, and **176** (230.07 acres), **from F-1, Agricultural District to HI, Heavy Industrial District**. Council District No. 8.

[Staff recommended denial]

[Planning Commission recommended denial]

Mr. Eric Greenway, Zoning Administrator, addressed the Committee and stated that Mr. Warnock has filed the paperwork to amend this request from 230.07 acres to 5 acres to HI, Heavy Industrial. The new request for 5 acres will be presented to the Planning Commission next month. The request would then be forwarded to the Land Use Committee meeting next month.

Mr. Greenway responded that this would be a major change to the request and would be required to go back to the Planning Commission for a recommendation to the Land Use Committee.

Chairman Farley stated the request by Mark Warnock would be sent back to the Planning Commission.

C. Review prior to Second Reading of the following:

1. Bill No. 09-41, an ordinance to amend and clarify certain sections of Ordinance Number 01-8-35, adopted August 27, 2001, Zoning and Development Standards Ordinance, “**Berkeley County Zoning Ordinance**” and amending Ordinances Numbered 02-08-33, 02-12-58, 04-11-68, 05-03-08, 05-08-58, 06-09-63, 06-12-92, and 07-07-43, in regard to the proposed creation of an **Arterial Roads Overlay District**.

Committee Member Callanan inquired if the overlay district was restricted to certain areas.

Mr. Greenway replied that the overlay district is restricted to all properties that front a major road in Berkeley County or is within 300 feet of a minor road that intersects a major road. This is to protect the major road corridors.

Committee Member Callanan inquired if the signage along the corridors would be grandfathered.

Mr. Greenway stated the zoning ordinance provides that the face of an existing non-conforming sign can be changed, but any other structural alteration would result in the removal of the sign.

Committee Member Callanan inquired if it is permitted for the face of a sign to be removed and replaced with a digital sign.

Mr. Greenway responded that would not be considered changing the face of an existing sign because the face would have to be removed from the supporting structural and that would not be allowed.

It was moved by Committee Member Schurlknight and seconded by Committee Member Fish to **approve** prior to **Second Reading, Bill No. 09-41**. The motion passed by unanimous voice vote of the Committee.

2. Bill No. 09-42, an ordinance to modify the official Zoning and Development Standards Map of Berkeley County, South Carolina, Re: **David and Joanne Wenger**, 101 Tall Pines Road, Ladson, TMS #242-03-03-002 (0.51 +/- acres), **from R-1, Single Family Residential District to PD-OP/IP, Planned Development Office Park/Industrial Park District**. Council District Number 5.

Committee Member Fish recommended that Bill No. 09-42 be forwarded to Second Reading. The home owners' association and Mr. Wenger have a meeting scheduled tomorrow night to discuss this matter. Committee Member Fish has requested that the home owners' association present a letter to the Committee stating the results of that meeting.

It was moved by Committee Member Fish and seconded by Committee Member Callanan to **approve** prior to **Second Reading, Bill No. 09-42**. The motion passed by unanimous voice vote of the Committee.

It was moved by Committee Member Callanan and seconded by Committee Member C. Davis to **adjourn** the Committee on Land Use meeting. The motion passed by unanimous voice vote of the Committee.

The meeting ended at 6:41 pm.

November 9, 2009
Date Approved

COMMITTEE ON LAND USE
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Chairman: Mr. Phillip Farley, District No. 1

Members: Mr. Timothy J. Callanan, District No. 2
Mr. Robert O. Call, Jr., District No. 3
Mrs. Cathy S. Davis, District No. 4
Mr. Dennis Fish, District No. 5
Mr. Jack H. Schurlknight, District No. 6
Mr. Caldwell Pinckney, Jr., District No. 7
Mr. Steve C. Davis, District No. 8
Mr. Daniel W. Davis, Supervisor, ex officio

A **meeting** of the **COMMITTEE ON LAND USE**, Standing Committee of Berkeley County Council, will be held on **Monday October 12, 2009**, at **6:00 p.m.**, in the Assembly Room, Berkeley County Administration Building, 1003 Highway 52, Moncks Corner, South Carolina.

AGENDA

INVOCATION

PLEDGE OF ALLEGIANCE TO THE FLAG OF THE UNITED STATES OF AMERICA

APPROVAL OF MINUTES

September 14, 2009

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[Staff recommended approval]

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October 7, 2009
S/Barbara B. Austin, CCC
Clerk of County Council